

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:11CR53
	)	
v.	)	
	)	
VANESSA CORONEL,	)	MEMORANDUM OPINION
	)	
Defendant.	)	
	)	

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This matter is before the Court on the order of the United States Court of Appeals (Filing No. [120](#)) pursuant to which this matter was remanded to this Court to conduct an evidentiary hearing on whether defendant asked her attorney to file a notice of appeal. On March 10, 2014, the Court entered an order directing the Public Defender to appoint counsel to represent the defendant in this matter (Filing No. [125](#)), and scheduling an evidentiary hearing for April 8, 2014, in Courtroom No. 5 of the Roman L. Hruska United States Courthouse, Omaha, Nebraska.

At the scheduled hearing, the government was represented by Assistant United States Attorney John E. Higgins, and the defendant was represented by Karen M. Shanahan, Assistant Public Defender. Evidence was adduced, arguments were presented by counsel for the parties, and the matter was submitted to the Court for decision.

The Court has reviewed the transcript of the sentencing hearing (Filing No. [126](#)) and has also reviewed a draft of the hearing held by the Court on April 23, 2014, during which both the plaintiff and the defendant testified. The testimony of both

the plaintiff and from Mr. Davis, her previous counsel, makes frequent reference to Josephine Rivera, who at the time of defendant's plea and at the time of her sentencing hearing was an employee of Mr. Davis. While Ms. Rivera's employment had terminated several months prior to the present hearing, she remained an available witness for both parties. The defendant elected not to call her to testify, although it appears that the defendant relies heavily on "conversations" she had with Ms. Rivera to support her present claim that she asked Mr. Davis to file an appeal of her sentence in this case. She carries the burden of proof on this issue. The Court finds that defendant has failed to prove that she requested her counsel to appeal this action. A separate order will be entered in accordance with this memorandum opinion.

DATED this 2nd day of May, 2014.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court